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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/593,818

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EXAMINER

HUYNH, NAM TRUNG

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

10/05/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/593,818	<b>Applicant(s)</b> DAM NIELSEN, PETER	
	<b>Examiner</b> NAM HUYNH	<b>Art Unit</b> 2617	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 September 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3 and 5-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 5-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/2/10 has been entered.

### ***Response to Amendment***

2. This office action is in response to amendment filed on 9/2/10. Claims 1, 3, 5-8, and 10 have been amended and claims 2 and 4 have been cancelled.

### ***Claim Rejections - 35 USC § 112***

3. Claims 10-13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In the response filed on 3/26/10, independent claim 10 was amended to recite a "computer readable medium" however there is no description in the specification of a "computer readable medium". Therefore this

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limitation is considered as new matter. Claims 11-13 are rejected because they depend on claim 10.

***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 10-13 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Independent claim 10 recites “a computer readable medium comprising software instructions” which is non-statutory because there is no description in the specification that defines the computer readable medium as a non-transitory medium. Claims 11-13 are rejected because they do not limit the claim to a non-transitory medium.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 1, 3, and 5-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Skorpik (US 7,130,583) in view of Kenagy et al. (US 6,449,492).

Regarding claim 1, Skorpik teaches a method comprising:

detecting a change of state of motion of a terminal from a state in which the terminal is in motion (active operational state), to a state in which the terminal is substantially at rest (dormant operational state) (column 5, lines 5-22, 55-61; event processing circuitry returns to a dormant operational state following the termination of a movement event).

Skorpik teaches that the event processing circuitry is configured to change a mode of operation of the wireless communication device responsive to the detection or absence of a movement event, but does not explicitly teach that placing the wireless communication device in a dormant operational state is followed by determining an absence of user-induced activity in the terminal, and activating an input lock in the terminal, depending on the detected change of state of motion and depending on the determined absence of user-induced activity. Kenagy discloses an apparatus and method for preventing inadvertent operation of a manual input device (title). Kenagy teaches that a key lock activation (activating an input lock) occurs automatically after the device does not receive an input from either the keypad or the switch (absence of user-induced activity) (column 4, lines 46-64). Therefore it would have been obvious to

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one of ordinary skill in the art at the time the invention was made to modify the wireless communication device of Skorpik to additionally include the capability to activate a key lock when no user activity occurs, as taught by Kenagy, in order to prevent inadvertent operation of when a manual input of the device is accidentally actuated.

Regarding claim 3, Kenagy teaches the method according to claim 1, wherein said step of determining an absence of user-induced activity in the terminal includes monitoring, during a first predetermined time period (time delay), any activity induced by a user (no input from keypad or switch) and, when said first predetermined time period has lapsed and user-induced activity has not been detected, establishing an absence of user-induced activity (column 4, lines 46-64).

Regarding claim 5, Skorpik teaches the method according to claim 1, wherein said step of detecting that the terminal is substantially at rest includes monitoring, during a first predetermined time period, any motion of the terminal and, when said first predetermined time period has lapsed and motion of the terminal has not been detected, establishing that the terminal is substantially at rest (active operational period is followed by dormant operational state after the elapse of a predetermined time period) (column 5, lines 5-22, 55-61).

Regarding claim 6, Skorpik teaches the method according to claim 1, where detecting a change of state of motion includes detecting acceleration (accelerometer) in any spatial direction (column 4, lines 21-31).

Regarding claims 7 and 10, the limitations are rejected as applied to claim 1.

Regarding claim 8, the limitations are rejected as applied to claim 4.

Regarding claim 9, the limitations are rejected as applied to claim 6.

Regarding claim 11, Skorpik teaches the method of claim 1, wherein detecting a change of state of motion of the terminal comprises determining that a motion detector (movement circuitry) included in the terminal has triggered an interrupt (presence signal indicating a movement event experienced by movement circuitry) (column 4, lines 13-20, 45-54).

Regarding claim 12, Skorpik teaches the apparatus of claim 7, further comprising:

a motion detector (movement circuitry),

wherein the instructions that, when executed by the processor, cause the apparatus to detect a change of state of motion of the apparatus include instructions that, when executed by the processor, cause the apparatus to determine that the motion detector has triggered an interrupt (event detection circuitry within device detects presence signal indicating a movement event experienced by movement circuitry) (column 4, lines 13-20, 45-54).

Regarding claim 13, Kenagy teaches the computer readable medium of claim 10, wherein the instructions that, when executed by the terminal, cause the terminal to determine an absence of user-induced activity in the terminal include instructions that, when executed by the terminal, cause the terminal to determine an absence of a depression of a key located on the terminal (no input from either keypad or switch) (column 4, lines 46-64).

***Response to Arguments***

8. Applicant's arguments with respect to claims 1, 3, and 5-13 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NAM HUYNH whose telephone number is (571)272-5970. The examiner can normally be reached on 8 a.m.-5 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George Eng/  
Supervisory Patent Examiner, Art Unit 2617

/Nam Huynh/  
Examiner, Art Unit 2617